

Docket Number: T10-0049
Supp.
Bench Date: 03/06/2013
Deadline: N/A

M E M O R A N D U M

TO: The Commission

FROM: Michael E. Stead, Rail Safety Program Administrator

DATE: February 21, 2013

SUBJECT: The Kansas City Southern Railway Company, the Greene County Highway Department, the Village of Kane and the State of Illinois, Department of Transportation.

Stipulated Agreement regarding improving public safety at the Mill Street and Jefferson Street highway-rail grade crossings of the Kansas City Southern Railway Company's track in Kane, Greene County, Illinois, designated as crossings AAR/DOT #294 577W, railroad milepost 46.85-AG and AAR/DOT #294 579K, railroad milepost 46.99-AG, respectively.

RECOMMENDATION: Enter Supplemental Order approving the re-obligation of Grade Crossing Protection Fund assistance and sufficient time to complete all billing.

On April 21, 2010, the Illinois Commerce Commission entered its original Order, subsequent to execution of Stipulated Agreement 1433, in the above captioned matter. The Kansas City Southern Railway Company (KCS) was required and directed to install automatic flashing light signals and gates and new surfaces and remove inactive tracks at the Mill Street/CH 17/CH 6 and Jefferson Street grade crossings in Kane, Greene County, Illinois. The original Order contained a division of cost among the parties and all work was to be completed on or before April 21, 2011.

On April 23, 2012, the Commission's Administrative Law Judge issued a Notice of Administrative Law Judge's Ruling that authority for reimbursement from the Grade Crossing Protection Fund expired on April 21, 2012, and the amount of \$175,093.67 remaining in IDOT Obligation XP10097 was de-obligated.

On February 5, 2013, the KCS filed its Petition to Reopen and Issue Supplemental Order requesting that the Commission enter a Supplemental Order to reopen Docket T10-0049 and re-obligate \$32,150.40. The Petition also asked that the KCS be permitted to complete all billing by June 30, 2013. The KCS claims that an invoice was

sent to the incorrect address on December 8, 2010, and payment was never made for the invoice.

On February 14, 2013, the Illinois Department of Transportation filed its Answer to the railroad's Petition, stating that it has no objection to the KCS's request for an extension of time.

Staff has investigated the KCS's Petition and found that the requests are reasonable. Therefore, staff recommends that the Commission re-obligate \$32,150.40 from the Grade Crossing Protection Fund for the subject project to pay the outstanding invoices and grant the KCS until June 30, 2013, to complete all billing for the work required by the original Order of April 20, 2010.

I recommend entry of the attached Supplemental Order.

Attachment
JJV